IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

CRP.No. 333 of 2006(C)

(AGAINST THE ORDER IN E.P.204/04 IN O.S.188/99 ON THE FILE OF PRINCIPAL SUB COURT, IRINJALAKUDA DATED 6.2.06)

REVN. PETITIONERS: JUDGMENT DEBTORS 1 AND 2/DEFENDANTS:

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1. SUNILKUMAR T.B., S/O. BALACHANDRAN, PUNNAKKATHARAYIL HOUSE, EMMADU P.O., KOOLIMUTTOM, KODUNGALLUR TALUK.

2. P. BALACHANDRAN, S/O. KRISHNAN, PUNNAKKATHARAYIL HOUSE, EMMADU P.O., KOOLIMUTTOM, KOODUNGALLUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT: PETITIONER/DECREE-HOLDER/PLAINTIFF:

THE CATHOLIC SYRIAN BANK LTD., SREENARAYANAPURAM BRANCH, MATHILAKAM P.O., KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.C.A.JOY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/12/2006,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P.333/06

ORDER ON I.A.1449/06 IN C.R.P.333/06

DISMISSED.

18.12.06. SD/-M.SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR,J.

C.R.P.NO.333 OF 2006

DATED THIS THE 18th DAY OF DECEMBER, 2006

ORDER

Petitioners are judgment debtors. Respondent is the decree holder. Second petitioner is the father and first petitioner is the son. Petitioners challenging the order of arrest passed by the executing Court on 6.2.06 in E.P.204/04.

2. Learned Counsel appearing for petitioners and respondent were heard.

3. Learned Counsel appearing for petitioners submitted that the decree was for realisation of the principal amount of Rs.6,75,489/- and by sale of the properties, decree holder had already realised more than Rs.8,89,600/- and the remaining properties were already charged or attached for the amount due to the State and therefore petitioners are not in a position to sell the property and pay the balance decree debt. It was submitted that petitioners may be permitted to pay the balance decree debt in six equal monthly instalments.

4. Learned Counsel appearing for respondent decree holder submitted that Rs.5,22,378/- is the balance debt due under the decree as on 9.4.06.

5. Considering the submissions made by both the parties, it is

clear that in the interest of justice an opportunity is to be granted to petitioners to pay the balance decree debt in instalments. The order of arrest dated 6.2.06 is quashed. Petitioners are permitted to pay the balance decree debt in six equal monthly instalments. First installment falling due on 18.1.07. If petitioners commit default in payment of two consecutive instalments, decree holder is at liberty to seek order of arrest of petitioners from the executing Court.

M.SASIDHARAN NAMBIAR,JUDGE

Acd